

HOUSE BILL REPORT

HB 1395

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to the uniform regulation of business and professions.

Brief Description: Modifying provisions concerning the uniform regulation of business and professions.

Sponsors: Representatives Wood, Conway and Condotta; by request of Department of Licensing.

Brief History:

Committee Activity:

Commerce & Labor: 1/18/06, 1/23/06 [DP2S].

Brief Summary of Second Substitute Bill

- Making language clarifications and technical changes to the regulation of business and professions programs administered by the Department of Licensing (Department), and to the uniform disciplinary procedures for business and professions regulated by the Department.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Holmquist, Hudgins, Kenney and McCoy.

Staff: Chris Cordes (786-7103).

Background:

The Department of Licensing (Department) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws regarding disciplinary actions, investigating violations of the law, and imposing sanctions for violations. Each business and profession is under either the disciplinary authority of the Director of the Department of Licensing (Director) or a board or a commission charged with regulating the particular profession.

The Uniform Regulation of Business and Professions Act (URBPA) was passed in 2002, consolidating disciplinary procedures for the licensed businesses and professions regulated by

the Department. In some cases, the enactment of the URBPA resulted in inconsistencies with the various business and professions statutes.

Summary of Second Substitute Bill:

Language clarifications and technical changes are made in the URBPA and in various professional licensing statutes.

Unprofessional Conduct

Certified Real Estate Appraisers: Negligence or incompetence, or failure or refusal without good cause to exercise reasonable diligence, in performing appraisal services, including verbal or written valuation reports to communicate a valuation, is deemed to be unprofessional conduct. Specific authority under this law allowing cease and desist orders is repealed.

Real Estate Brokers: Specific authority under this law allowing cease and desist orders is repealed.

Director's or Disciplinary Board's Authority

Bail Bond Agents: The Director's designee, as well as the Director, is given the authority to order restitution or issue an assurance of discontinuance.

Bail Bond Recovery Agents: Unprofessional conduct includes failure to meet the qualifications of the bail bond recovery agent statute.

Collection Agencies: The Washington State Collection Agency Board, rather than the Director, may adopt rules and enforce the Board's duties under this law.

Geologists: Language is deleted that gives specific authority and creates a prohibited practice related to the Director entering into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing.

The Geology Board, rather than the Director or the Director's designee, conducts disciplinary hearings and issues disciplinary orders.

Private Investigators and Security Guards: The Director's designee, as well as the Director, is given the authority to administer these laws.

URBPA Revisions

Definitions: "Unlicensed practice" is defined to include representations made to a person, rather than a consumer.

Scope: The URBPA applies to bail bond recovery agents.

Unprofessional Conduct: Misrepresentations in renewing a license, as well as in obtaining or reinstating it, and engaging in unlicensed practice are instances of unprofessional conduct. Incompetence, negligence, or malpractice which causes damage to another, rather than a consumer, is unprofessional conduct.

At a disciplinary hearing, a certified copy of a final holding of a court with competent jurisdiction is conclusive evidence of the applicant's conduct.

License Denial: The disciplinary authority may issue a statement of intent to deny a license where there is an investigation and a reason to believe the minimum qualifications for licensure have not been met. In addition, the license holder or applicant may file a request for a hearing to contest the intent to deny a license. The time limits for holding a hearing on a violation apply to requests for a hearing on the intent to deny a license.

The disciplinary authority's order revoking a license, or denying an initial or renewal license application, must be for a specific interval of time, rather than indefinitely.

Cease and Desist Orders: A disciplinary authority may issue a notice of intent to issue a cease and desist order to any person the disciplinary authority believes has engaged in or is about to engage in unprofessional conduct. Among other things, the notice must include a description of unlawful practices or activities. Temporary orders to cease and desist may be ordered if the disciplinary authority makes a written finding of fact showing that the public interest will be irreparably harmed by a delay in issuing such an order.

Application of URBPA

Although the URBPA does not apply generally to conduct or conditions occurring before January 1, 2003, and the prior law applies in disciplinary actions for that conduct, the URBPA does apply to applications for licensure made on or after January 1, 2003.

Second Substitute Bill Compared to Original Bill:

The substitute bill (1) deletes the section relating to funeral directors, a section that was enacted in 2005; (2) modifies the language establishing a negligence standard for unprofessional conduct of real estate appraisers by requiring that the standard be met when performing appraisal services, including a verbal or written valuation report to communicate a valuation (rather than when developing an appraisal, preparing a report, or communicating the report); and (3) makes other technical conforming corrections in language.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is important for the Department's administration and enforcement. The Department wanted enough time to pass after enactment of the URBPA before bringing up housekeeping changes so that problems and inconsistencies would be identified. The changes include concerns raised by the agency's Assistant Attorney General.

Testimony Against: None.

Persons Testifying: George Twiss, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.